

**STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE REGULATION**

Before the Commissioner of the Office of Financial and Insurance Regulation

**Kevin D. Hagen
System ID No. 0405489**

Enforcement Case No. 07-5236

Respondent
_____ /

Issued and entered
On 5/15/08 2008
By **Stephen R. Hilker**
Chief Deputy Commissioner

CONSENT ORDER AND STIPULATION

A. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. At all times pertinent herein, Kevin D. Hagen, System ID No. 0405489 ("Respondent") was a licensed non-resident producer in the State of Michigan with qualifications to transact the business of life insurance.
2. As an insurance producer, Respondent knew or had reason to know that Section 1208a of the Code provides that an insurance producer shall not act as an agent of an insurer unless the insurance producer becomes an appointed agent of that insurer.
3. As an insurance producer, Respondent further knew or had reason to know that Section 1239(1)(b) of the Code provides that the commissioner may place on probation, suspend, revoke an insurance producer's license or may levy a civil fine under section 1244 or any combination of actions for violating any insurance laws or violating any regulation, subpoena, or order of the commissioner or of another state's insurance commissioner.
4. As an insurance producer, Respondent further knew or had reason to know that Section 1239(1)(h) of the Code provides that the commissioner may place on probation, suspend, revoke an insurance producer's license or may levy a civil fine under section 1244 or any combination of actions for using fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.

5. Respondent further knew or should have known that Section 2005 of the Code, MCL 500.2005, provides that an unfair method of competition and an unfair or deceptive act or practice in the business of insurance means the making, issuing, circulating, or causing to be made, issued, or circulated, an estimate, illustration, circular, statement, sales presentation, or comparison which by omission of a material fact or incorrect statement of a material fact that misrepresents the terms, benefits, advantages, or conditions of an insurance policy or makes a misrepresentation for the purpose of inducing or tending to induce the lapse, forfeiture, exchange, conversion, or surrender of an insurance policy.
6. National Foundation of America, Inc., hereafter referred to as ("NFOA"), was a registered non-profit corporation in the State of Tennessee, but the Internal Revenue Service never granted NFOA an exemption under Section 501(c)(3) of the Internal Revenue Code.
7. NFOA does not have, nor has it ever had, a certificate of authority issued by the Commissioner of Commerce and Insurance to engage in the business of insurance as an insurance company in the State of Tennessee.
8. NFOA does not have, nor has it ever had a certificate of authority issued by the Office of Financial and Insurance Regulation ("OFIR") to engage in the business of insurance as an insurance company in the State of Michigan.
9. On October 12, 2007, OFIR issued an Order to Cease and Desist against NFOA, Richard K. Olive, President of NFOA, Susan L. Olive, an officer of NFOA.
10. At all times pertinent herein, NFOA maintained and was the registrant of the website www.nationalfoundationofamerica.org.
11. NFOA marketed insurance products as "Installment Plans" or charitable gift annuities and Respondent sold these insurance products to residents of the State of Michigan by convincing them to replace their existing annuities or cash value life insurance policies with promises that NFOA's annuities would entitle them to significant tax benefits due to NFOA's alleged status as a charitable organization.
12. Under Section 602 of Code, MCL 500 602, annuities are included in the definition of "life" insurance and "transaction of life insurance."
13. On or about May 24, 2006, Respondent sold [REDACTED], a Michigan resident, an annuity offered by NFOA.
14. Respondent acted as an un-appointed agent of an unlicensed insurer.
15. Respondent's act of selling NFOA's annuities violated Michigan's insurance laws.

16. Respondent used fraudulent, coercive, or dishonest practices or demonstrated incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in the State of Michigan and elsewhere.
17. Respondent sold an annuity to one Michigan resident by misrepresenting the terms, benefits, or advantages of the annuity contract. The Michigan consumer was led to believe they were buying a legitimate insurance product issued by an authorized insurer and would be making approximately a 9% return on investment and that they would enjoy a substantial charitable tax deduction.
18. Respondent made misrepresentations that induced or tended to induce the Michigan resident to forfeit, exchange, convert, or surrender their insurance policy.
19. Based on the facts above, Respondent has violated Sections 1208a, 1239(1) and 2005 of the Code, MCL 500.1208a, 500.1239(1), and 500.2005.

B. ORDER

Based on the findings of fact and conclusions of law above and Respondent's stipulation, it is ORDERED that:

1. Respondent shall immediately cease and desist from operating in such a manner as to violate with Section 1208a, 1239(1) and 2005 of the Code, MCL 500.1208a, 500.1239(1), and 500.2005.
2. Respondent shall pay to the State of Michigan a civil fine of Five Hundred dollars (\$500.00). Upon execution of this Order, OFIR will send Respondent an Invoice for the civil fine, which shall be due within 30 days of issuance of the Invoice.

By: Stephen R. Hilker
Stephen R. Hilker
Chief Deputy Commissioner

Dated: 8/15/08